Supreme Court, U. S.
FILED
OCT 6 1980
MICHAEL RODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

ANNA BARR AND ABRAHAM BARR, as Administrators DeBonis non of the goods, chattels and credits of THOMAS NATHANIEL BARR, Deceased,

Petitioner.

vs.

DOCKET NO 80-111

THE CITY OF NEW YORK AND NEW YORK HEALTH AND HOSPITAL CORPORATION, JAMAICA HOSPITAL, ALFRED H. SMITH, M.D., NORBERT GERSTEN HARBER, M.D., GEORGE OTEIFA, M.D., AND KIMITRIOS KOTSILUMBUS, M.D.,

Respondents.

R E P L Y

GERALD MURRAY
Counsel for Petitioner

Office & P.O. Address
90-61 Sutphin Blvd.
Jamaica, N.Y. 11435
Tel. (212) 739-6672

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POINT I

It is respectfully submitted that the issue that certiorari was raised in the motion for permission for the Court of Appeals per brief and affidavit at 7A.

"It is respectfully submitted that Points I through IV in reality are different avenues to accomplish the same result and should be ruled upon by this Court as it affects a great number of citizens and involves very substantial property rights, and constitutional safeguards." And at page 8A.

"For this particular case, it is also claimed that plaintiffs' were not given substantial justice."

POINT II

It is respectfully submitted to the Court that the argument that plaintiffs does not have a property right by Respondent's counsel is absurd. If there was a finding of fact which would estop the Respondent from pleading the statute of limitations then the plaintiff clearly has a right to sue. To not call this a property right because there was none is an unfair play of words. When the statute was enacted is obviously granted a property right which has not existed at common law. As a matter of logic and good sense what man can say in all candor that the death of a father of all these children and husband who was the breadwinner was not a property right. Respondent never even submitted an affidavit by doctor who spoke to plaintiffs. It is

respectfully submitted that the proposition that I have stated speaks for itself, such as res ipsa in law and such as a theorum in geometry.

POINT III

The issue Respondent raises as to the Wheeler case is not even the issue of this case. This case involves a determination by a Judge of facts that are in conflict without a hearing.

POINT IV

The Courts have long recognized the right to a fair trial in criminal cases. Is not litigation over the death of the breadwinner father of the poor family - even though he has not committed a crime - entitled to as much?

Respectfully Submitted,

GERALD MURRAY